

PATENT

MS306434.01/MSFTP526US

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being submitted via the USPTO EFS Filing System on the date shown below to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Date: February 4, 2009

/Karla D. Osolin/

Karla D. Osolin

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicant(s): Kamal Jain, *et al.*

Examiner: Nathan Erb

Serial No: 10/782,687

Art Unit: 3628

Filing Date: February 19, 2004

Title: SYSTEMS AND METHODS FOR MODELING APPROXIMATE MARKET  
EQUILIBRIA

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**PETITION TO REVIVE FOR UNINTENTIONAL DELAY UNDER 37 C.F.R. §1.137(b) AND  
REQUEST FOR WAIVER OF FEE UNDER 37 C.F.R. §1.17(M)/  
SUBMISSION PURSUANT TO 37 CFR §1.114**

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Dear Sir:

A Submission Pursuant to 37 CFR §1.114 is being filed concurrently herewith.

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should be processed and considered promptly by all Office personnel. As applicants' representative did not receive an advisory action until *after* the statutory deadline, the reply after final was not processed and considered promptly by the U.S. Patent and Trademark Office.

Even if an amendment after final rejection will not operate to avoid abandonment, some responsibility for the abandonment should be shared by the U.S. Patent and Trademark Office out of principles of fairness. Applicants' representative timely filed an amendment after final rejection and relied on the Examiner to make a timely response. Due to such reliance, the application went abandoned when the advisory action was received *after* the statutory deadline. Accordingly, applicants' representative is filing the required reply in the form of an RCE, the RCE fee, an amendment, and an adequate statement of unintentional delay. All applicants' representative is now requesting is simply waiver of the revival fee. The principles of fairness dictate that partial blame should rest with the Examiner (USPTO), and since applicants' representative has fulfilled the requirements of filing the RCE, the RCE fee, amendment, and statement of unintentional delay, the U.S. Patent and Trademark Office should at least waive the fee for reviving the application.

In view of at least the above, it is respectfully requested that the fee for the Petition to Revive be waived. Since the above-identified utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

Applicants' representative respectfully submits that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(b), was unintentional.

In the event that waiver of the petition fee is not granted, a credit card payment form is filed concurrently herewith in connection with all fees due regarding this document. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [MSFTP526US].

Attached herewith is a submission pursuant to 37 CFR §1.114, filed concurrently with an RCE, for the above-identified patent application.

Respectfully submitted,

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/Himanshu S. Amin/

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